

FILED

RICHARD I. FINE
Prisoner ID # 1824367
c/o Men's Central Jail
441 Bauchet Street
Los Angeles, CA 90012

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CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY 

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CV10-00048

JFW(cw)

RICHARD I. FINE,
Plaintiff,

Case No.

vs.

VERIFIED CIVIL RIGHTS
COMPLAINT TO VOID AND
ANNUL CALIFORNIA SUPREME
COURT ORDER OF
DISBARMENT, AND PRECEDING
STATE BAR ORDER OF
INVOLUNTARY INACTIVE
ENROLLMENT, FOR FRAUD
UPON THE COURT

STATE BAR OF CALIFORNIA;
BOARD OF GOVERNORS OF THE
STATE BAR OF CALIFORNIA;
SCOTT DREXEL, Chief Trial
Counsel of the State Bar of California;
and THE SUPREME COURT OF
CALIFORNIA (only as a necessary
party);

42 U.S.C. § 1983

Defendants.

DEMAND FOR JURY TRIAL

I. Summary of Action

1. Plaintiff RICHARD I. FINE seeks an order voiding and annulling the State Bar Hearing Department's October 12, 2007 Order of Involuntary Inactive Enrollment, effective October 17, 2007, entered by State Bar Court Judge Richard A. Honn, which was not affirmed in the denial of a Petition for Review

1/5/2010 2:02:51 PM Receipt #: 129207
Cashier : KPAGE [LA 1-1]
Paid by: RICHARD I. FINE
2:CV10-00048
2010-086900 5 - Civil Filing Fee(1)
Amount : \$60.00
2:CV10-00048
2010-510000 11 - Special Fund F/F(1)
Amount : \$190.00
2:CV10-00048
2010-086400 Filing Fee - Special(1)
Amount : \$100.00
Cash Payment : 350.00

1 by the California Supreme Court, and an order voiding and annulling the State
2 Bar Review Department's September 29, 2008 Recommendation of Disbarment
3 effective November 29, 2008, which became an order of the California Supreme
4 Court effective March 25, 2009 after a Petition for Review and Rehearing was
5 denied pursuant to B&P Code § 6084.
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8 2. The reason for the complaint is that the Chief Trial Counsel of the
9 State Bar and the attorneys in the office of the Chief Trial Counsel of the State
10 Bar, along with other officers of the Court on the Board of Governors and in the
11 State Bar, committed fraud upon the California Supreme Court in bringing and
12 pursuing the Notice of Disciplinary Charges against Fine for "moral turpitude",
13 ordering the involuntary enrollment and recommending the disbarment.
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17 3. At all times they knew that the charges were false, that the charges
18 violated the First Amendment to the U.S. Constitution, that the charges did not
19 constitute "moral turpitude", that the charges were being brought and prosecuted
20 for the personal benefit of members of the Board of Governors who were either
21 representing parties adverse to Fine's clients' litigation or themselves were
22 adverse to Fine's clients in litigation and that the charges were being brought in
23 collusion with and aiding and abetting the judicial officers and judges of the Los
24 Angeles Superior Court who were receiving criminal payments from Los Angeles
25 County. LA County was a party before such judges and judicial officers. Fine
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1 had challenged the LA County payments as unconstitutional under both the U.S.
2 and California Constitutions in federal civil rights lawsuits, and had challenged
3 the judges presiding over cases where LA County was a party.
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5 **II. Jurisdiction, Venue and Standing**

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7 4. Jurisdiction exists under 42 U.S.C. § 1983 for violation of the rights
8 protected under the First, Fourth and Fourteenth Amendments, and for the
9 extrinsic fraud of an officer of the Court upon the Court resulting in an adverse
10 state court decision. (See *Kougasian v. TSML, Inc.*, 359 F.3d 1136 (9th Cir.
11 2004).)
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14 5. Venue exists in the Central District, Western Division, in that Fine
15 resides there, the defendants maintain offices there and all events occurred there.
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17 6. Standing exists in that the State Bar has obtained an Order of
18 Disbarment and a Judgment against Fine for costs as part of the disbarment, and
19 seeks to enforce the disbarment through civil and criminal court action if Fine
20 attempts to “practice law” or “hold himself out to practice law” in California, and
21 has contacted other states and judicial forums seeking to have them disbar Fine,
22 including but not limited to the U.S. District Court for the Central District of
23 California, the Ninth Circuit Court of Appeals and the Court of Appeals for the
24 District of Columbia.
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III. The Parties

7. The plaintiff (Fine) has practiced law for over 42 years. He received a B.S. from the University of Wisconsin (1961), a Doctor of Law from the University of Chicago Law School (1964), and a Ph.D. in international law from the University of London, London School of Economics and Political Science (1967). He has practiced in London with Coudert Bros., an international law firm; been a member of the U.S. Department of Justice, Antitrust Division, in Washington D.C.; been the Special Counsel to the Governmental Efficiency Committee of the LA City Council; founded the Antitrust Division for the LA City Attorney's office, the first municipal antitrust division in the country; and, since 1974, has been in private practice in his own firm engaged in both U.S. and international cases.

8. Fine has received various certificates of recognition for his contribution to society through his legal work, including "Lawyer of the Decades."

9. Fine is known for fighting government corruption and misappropriation of funds by state, county and municipal governments. As of the present time, Fine has been responsible for the return and saving of almost \$1 billion dollars for California taxpayers through lawsuits brought against governments engaging in illegal acts. Fine also won the 2003 lawsuit in the

1 California Supreme Court which holds that when the state does not have a
2 budget, it cannot pay anyone. This stopped the Governor and legislators from
3 getting paychecks during a budget crisis while the rest of the state suffered. At
4 the outset of the case in 1998, Fine obtained an injunction which closed down the
5 California government. This angered government employees, including judges,
6 for interfering with their paychecks.
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10 10. In the last ten years, Fine has been active in fighting judicial
11 corruption.

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13 11. Since late 1995, Fine has also been the Honorary Consul General of
14 Norway in Los Angeles and Southern California.

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16 12. Fine has been held in "coercive incarceration" since March 4, 2009
17 for challenging LA Superior Court Judge David P. Yaffe's presiding over a case
18 involving LA County while taking criminal payments from LA County.

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20 13. Defendant State Bar of California is a public corporation established
21 by the California Constitution. Its members are those individuals admitted to
22 practice before the California Supreme Court. It can sue and be sued. It is
23 managed by a board of governors.
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26 14. Defendant Board of Governors of the State Bar (Board) is a group of
27 State Bar members elected at various intervals, and non-members appointed by
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1 the Governor as “public members” for set terms. The Board has ultimate
2 responsibility for all actions of the State Bar.
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4 15. Defendant Scott Drexel at all times was the Chief Trial Counsel of
5 the State Bar. He was appointed by the legislature and serves “the pleasure of the
6 Board.” He reports directly to a committee of the Board. He supervises the
7 Office of Chief Trial Counsel (OCTC), which conducts disciplinary
8 investigations, and brings and pursues disciplinary cases styled as Notices of
9 Disciplinary Charges (NDC).
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12 16. Defendant Supreme Court of California is a defendant herein only as
13 it is a “necessary party.” It has sole control over the right to practice law in
14 California.
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17 **IV. Common Allegations**

18 **A. Role of the State Bar in disciplinary proceedings**

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20 17. California has two methods to discipline attorneys. The first is by a
21 court of record. However, an inactive enrollment, suspension or disbarment may
22 only be ordered by the Supreme Court, even if the case started in a court of
23 record. The second is to use the State Bar as the “administrative arm” of the
24 Supreme Court. Under this method, the Chief Trial Counsel and OCTC initiate
25 action by filing a NDC in the “State Bar Court.”
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1 18. The State Bar Court is part of the State Bar. It is not the "court of
2 record"; i.e., it is not in the California Constitution. It also is not a "court," nor is
3 it an "administrative agency" subject to administrative law protections. The State
4 Bar Court is a group of individuals designated as state bar judges under the State
5 Bar Act (B&P Code §§ 6079.1 and 6086.65). They are appointed by the
6 California Supreme Court, the Governor or the legislature for specific terms.
7 They are divided into a Hearing Department and a Review Department. Their
8 salaries are set by statute but they are paid by the State Bar, who also sets their
9 other compensation, such as "benefits." Under statute, they are not responsible
10 for their decisions as they sit in the "stead" of the Board. See B&P Code §§
11 6079.1 and 6086.65.
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17 19. Neither the State Bar nor the State Bar Court has the power to impose
18 any discipline on an attorney. (See Lebbos v. State Bar, 53 Cal.3d 37, 48
19 (1991).) They can order a person "involuntary inactive," but only subject to the
20 immediate, independent review of the Supreme Court. They can only
21 recommend disbarment. Only the Supreme Court can order a lawyer inactive if
22 he seeks review, and only the Supreme Court can order a person disbarred. With
23 respect to the disbarment, B&P Code § 6084 provides that if the petition for
24 review is denied, the Review Department's recommendation is filed as the
25 Supreme Court's order.
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1 20. Article III, Section 3.5, of the California Constitution precludes the
2 State Bar Court from considering federal constitutional claims. (See *Hirsch v.*
3 *Justices of the Supreme Court of the State of California*, 67 F.3d 708 (1995)
4 (“Opportunity to present Federal claims – The California Constitution precludes
5 the Bar Court from considering constitutional claims. See Calif. Const. Art. III,
6 Sec. 3.5.”)

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9 **B. Criminal payments from LA County to LA Superior Court**
10 **judges and other counties to judges called “judicial benefits”.**

11 21. In the late 1980s, LA County commenced paying LA Superior Court
12 judges “judicial benefits” in addition to their state salaries. LA County knew that
13 under Article VI, Section 19, of the California Constitution, only the state
14 legislature could prescribe the compensation of the judges and that this duty
15 could not be delegated. They also knew that no statute allowed the payments. In
16 2000, California Supreme Court Chief Justice Ronald M. George stated that the
17 payments were wrong and may be unconstitutional in a September speech to the
18 meeting of the California Judge Association in San Diego.

19 22. The payments were held to violate Article VI, Section 19, of the
20 California Constitution and were held to be not delegable by the legislature in the
21 case of *Sturgeon v. County of Los Angeles*, 167 Cal.App.4th 630 (2008) rev.
22 denied Dec. 23, 2008. *Sturgeon* was decided on October 10, 2008, which was
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1 before the Review Department Recommendation of Disbarment for Fine became
2 effective.

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4 23. In response to the Sturgeon decision, the Judicial Council of
5 California drafted, the legislature passed and the Governor signed Senate Bill
6 SBX2-11, which was enacted February 20, 2009, effective May 21, 2009. Senate
7 Bill SBX2-11 gave retroactive immunity from criminal prosecution, civil liability
8 and disciplinary action to every "officer or employee of a government entity
9 [judge or judicial officer] because of benefits provided to a judge under the
10 official action of a governmental entity prior to the effective date of this act on
11 the grounds that those benefits were not authorized by law." The criminal acts
12 encompassed misappropriation of funds, obstruction of justice and bribery,
13 amongst others.

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18 **C. Fine's history of challenges to the criminal LA County payments.**

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20 24. In or about 2000, upon becoming aware of the LA County payments
21 to judges and judicial officers, Fine began challenging the correctness of judges
22 presiding over cases where they had received money from LA County. These
23 challenges occurred at the moment that Fine became aware of the payments. The
24 challenges occurred in appellate briefs in 2000-2002 against Judge Chalfant and
25 Justice Doi Todd in the case of Silva v. Garcetti; in 2002 against Judge Lewin in
26 the federal civil rights case of LACAOEHS v. County of Los Angeles and Lewin;
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and against Judge Chalfant, Commissioner Mitchell and Justices Boren, Nott and Doi Todd in the federal civil rights case of Silva v. Chalfant, et al; CCP § 170.3 objections against Judge Hubbell, Judge Bruguera and Commissioner Mitchell in various cases in 2004; CCP § 170.3 objection against Judge Bruguera in the case of Coalition to Save the Marina, et al, v. County of Los Angeles, et al, (four consolidated cases) and Writ of Mandate, followed by appellate brief; 2008 CCP § 170.3 objection in the case of Marina Strand Colony II Homeowners Association v. County of Los Angeles followed by writ of habeas corpus.

D. The criminal County payments to the judges show that the counts in the NDC are a sham.

25. The NDC originally contained 22 counts of “moral turpitude.” Each count was based solely upon a document filed in a court. This violates the First Amendment unless a false statement is proven. After the completion of the Review Department hearing, all but eight counts in the NDC had been dismissed. The Review Department had reinstated two counts (4 and 19) which the Hearing Department had dismissed and the OCTC had not appealed. The Review Department had done this without notice or hearing, in violation of State Bar Rule of Procedure Rule 305 and due process. (See In Re Ruffalo, 390 U.S. 544 (1968).)

26. The eight remaining counts were Counts 1, 5, 6, 8-9, 14, 16, 18 and 20-22. The judicial officers who took the criminal payments were Mitchell –

Counts 1, 4, 5, 8-9, 14, 16, 18, 20-22; Doi Todd – Counts 16, 18, 20-22, Czuleger and Dukes – Counts 20-22. Boren and Nott, who concealed Doi Todd's actions, were in Counts 18 and 20-22, and Honn, who took payments from Orange County, was in Count 8-9. Lewin is in Count 17.

E. Six California Supreme Court Justices are involved with the County criminal payments.

27. Five California Supreme Court Justices received criminal payments while they were Superior Court judges, based upon a review of their official biographies. These are Chief Justice George and Justices Chin, Corrigan, Kennard and Moreno. Further, Chief Justice George and Justice Baxter are on the California Judicial Council that drafted Senate Bill SBX2-11.

28. These six denied Fine's Petition for Review and refused to recuse themselves. The U.S. Supreme Court case of *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813 (1986) held that due process was violated by an Alabama Supreme Court justice who cast a deciding vote against an insurance company while he was the lead plaintiff in a nearly identical case. In Count 18 of the NDC, Fine was held to have committed "moral turpitude" for filing the *Silva* case, a federal civil rights defendants class action suit seeking to enjoin the LA County payments to LA Superior Court judges on the grounds that they violated Article VI, Section 19, of the California Constitution, the First Amendment and the

1 Fourteenth Amendment. The Sturgeon case and Senate Bill SBX2-11 showed
 2 that Fine was correct in his charges in the Silva case.
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4 29. On December 8, 2009, Fine submitted a motion to the California
 5 Supreme Court to “set aside and void disbarment.” The California Supreme
 6 Court refused to file the motion.
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8 **F. The State Bar’s concealment of:**

- 9 a) Mitchell as the complaining witness;
- 10 b) The fact that Mitchell was not a judicial officer in the De Flores case;
- 11 c) The void California appellate case of Fine v. Superior Court;
- 12 d) Mitchell’s distribution of \$2,550,600 from the De Flores settlement fund in violation of the final judgment;
- 13 e) Mitchell’s financial and other acts against the interests of class members.
- 14

15 30. In response to Fine’s motion to dismiss the NDC before the State Bar
 16 Hearing Department, OCTC lawyer Gerald E. Magnuson stated in a declaration
 17 that the State Bar initiated the investigation against Fine which resulted in the
 18 NDC. This statement was proven to be false when LA Superior Court
 19 Commissioner Bruce E. Mitchell (Mitchell) unexpectedly appeared as a hearing
 20 spectator over a year later and stated that he was the “complaining party.” (State
 21 Bar Transcript, Vol. 4, pp. 60-61.) The State Bar had never revealed Mitchell’s
 22 identity, even though he was involved in every case upon which the NDC was
 23 based but the LACAOEHS v. Lewin case (the “Lewin” case), and had received
 24 criminal payments from LA County.
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1 31. The State Bar founded the NDC on the false premise that Mitchell
2 was a judicial officer and the “temporary judge” for post-judgment proceedings
3 in the case of De Flores, et al, v. EHG National Health Svcs., et al, LASC case
4 no. BC150607 (the “De Flores” case). This false premise affected Counts 1, 5,
5 14 and 20-22. The true fact is that Mitchell never was a “temporary judge” for
6 post-judgment proceedings in the De Flores case as no one executed a stipulation
7 as required under Article VI, Section 21, of the California Constitution, and CCP
8 § 259(d). This fact was further emphasized on August 21, 2002 when Mitchell,
9 acting as the LA Superior Court, voided and annulled the September 24, 2001
10 Order and Judgment of Contempt in which he claimed he was a “temporary
11 judge” for post-judgment proceedings. He (the LA Superior Court) took action
12 in response to an August 12, 2002 order to show cause re granting immediate
13 habeas corpus relief without hearing in the federal case of Fine v. Superior Court,
14 USDC case no. CV-02-4647.

15 32. This August 21, 2002 order also voided and annulled the case of Fine
16 v. Superior Court, 97 Cal.App.4th 651 (April 2002), which affirmed the now void
17 and annulled September 24, 2001 order and judgment of contempt. (A void order
18 is void *ab initio*; Valley v. Northern Fire and Marine Co., 254 U.S. 348 (1920).
19 No court has the lawful authority to validate a void order; U.S. v. Throckmorton,
20 98 U.S. 61 (1878). All orders based on void orders are themselves void; Austin v.

1 Smith, 312 F.2d 337, 343 (1962) (“if the underlying judgment is void, the
2 judgment based on it is also void.”). Any action taken by Mitchell was void.
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4 Any action that relied on an action taken by Mitchell was void. This removed
5 Counts 1, 5, 14 and 20-22 of the NDC. It also removed Count 4, which had been
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7 unlawfully reinstated.

8 33. The De Flores stipulation of settlement, which was approved by the
9 stipulated order of judgment (final judgment), provided for the disbursement of
10 the \$7.86 million settlement fund at Section 5, paragraph 5.2(a)-(d). In the
11 summer of 1999, Mitchell moved the \$7.86 million from Wells Fargo Bank to
12 Bank of America, where his Form 700 financial interest statement showed that he
13 had personal loans. In 2000, he spoke of using the De Flores settlement fund to
14 pay attorneys in the case to defend against an appeal of his actions by Fine.
15 Mitchell was no longer a “temporary judge” after August 28, 1999. In 2005,
16 Diane Goldman, Marc Brauer and the firm Gelfano and Gelfano applied for fees
17 for such defense and were paid in 2006. This payment violated Section 5,
18 paragraph 5.2(b) of the stipulation of settlement. It also showed that Mitchell
19 “misappropriated” funds for his defense of the 2000 appeal, making Count 4 of
20 the NDC false and a sham.
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26 34. On April 1, 2005, Mitchell approved a stipulation of settlement and
27 mutual release under which the settlement class in the De Flores case would
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1 purchase, through the Court, all claims of Richard Fine against “the Superior
2 Court, Bruce E. Mitchell and other judicial officers” for \$80,000, paid by the De
3 Flores settlement fund. Such purchase violated Section 5, paragraph 5.2(b) of
4 the stipulation of settlement. Mitchell then paid John Moe III and Peter Leeson
5 IV of the firm of Luce, Forward \$300,000.00 from the De Flores settlement fund
6 to defend such purchase. Mitchell then, on July 26, 2006, awarded lawyers in the
7 De Flores case \$1.6 million in fees in violation of Section 5, paragraph 5.2(a) of
8 the stipulation of settlement on the condition that they would “hold back” 34%,
9 or \$566,684.65, to further pay to defend the purchase. The total amount
10 unlawfully paid for the purchase and the related attorney’s fees from the De
11 Flores settlement fund was \$1,980,000, in violation of Section 5, paragraph
12 5.2(a) and (b) of the stipulation of settlement. (See Appendix to July 26, 2006
13 Order in the De Flores case for the above expenditures and State Bar joint trial
14 exhibit 180.) U.S. Bankruptcy Judge Sheri Bluebond also approved the April 1,
15 2005 settlement and mutual release agreement knowing that it violated the
16 stipulation of settlement and mutual release settlement in the De Flores case and
17 was an unlawful taking of funds from the De Flores settlement fund. U.S.
18 District Court Judge Ann Marie Stotler was also made aware of the violation of
19 the stipulation of settlement and the unlawful taking of funds from the De Flores
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1 settlement fund in the litigation ensuing over the settlement agreement and
2 mutual release. She did nothing.

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4 35. Mitchell unlawfully paid out approximately \$567,000 of other
5 monies from the De Flores settlement fund in violation of Section 5, paragraph
6 502(b) of the stipulation of settlement. The recipients were: Byron Moldo, for
7 acting as "receiver," "notice giver" and "attorneys work" – estimated \$510,172,
8 he was employed only to be a "disbursing agent," i.e. check writer; Diane
9 Karpman of Karpman & Associates – estimated \$55,980, as an "ethics expert" to
10 assist "plaintiff's attorneys"; Bernard George Investigations – estimated \$10,146
11 as an "investigator" to investigate Fine; Tovar & Cohen - \$800 to hire a medical
12 expert for court when no court appearance was contemplated as the stipulation of
13 settlement provided for a private judge to decide the value of each class
14 member's claim; and \$768 to purchase a scanner for an unstated purpose. These
15 unlawful expenditures were part of an accounting presented by the disbursing
16 agent for a March 13, 2006 hearing in the De Flores case before Mitchell. (See
17 State Bar joint trial exhibit 180.)

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19 36. The total monies paid out by Mitchell in the De Flores case was
20 approximately \$2,550,600, in violation of Section 5, paragraph 5.2(a) and (b).

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22 37. In the case of McCormick v. Reddi-Brake Supply Corp., et al.,
23 Mitchell upset a settlement of a \$20 million judgment and a right to collect
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1 against a \$5 million insurance policy because Fine was class counsel. The class
2 later settled for \$1.5 million without Fine. In the case of Churchfield v. Wilson,
3 Mitchell decertified the class because Fine was class counsel. The case died. A
4 previous identical class action case had settled against the State of California with
5 Fine as class counsel and each claimant received 100% of their loss. In the case
6 of Debbs v. Calif. Dept. of Veterans Affairs, Mitchell decertified a class of
7 thousands of veterans, who had been overcharged on Cal Vet home loans,
8 because Fine was class counsel. In the case of PSO v. Sony, Sharp and Toshiba,
9 Mitchell refused to certify a class because Fine would be class counsel after Fine
10 had won the certification issues on appeal. Previously, before another judge, 25
11 other consumer electronics and computer companies had settled the class action
12 case. In the case of Shinkle, et al, v. City of Los Angeles (the "Shinkle" case),
13 Mitchell denied class certification on substantive grounds instead of certification
14 grounds. This violated the holding of Linder v. Thrifty Oil, 23 Cal.4th 429 (2000).
15 In the De Flores case, Mitchell removed Fine as "class counsel" even though
16 there was not a class counsel for the settlement class set forth in the stipulation of
17 settlement, approved in the final judgment. Mitchell was trying to alter the
18 substance of the final judgment. Under CCP § 473d, he was prohibited from
19 doing such.
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1 38. Mitchell's activity against Fine commenced with the denial of
2 certification in the Shinkle case in 1999, followed by the removal as "class
3 counsel" in the De Flores case in 2000, followed by the decertification, etc., in
4 2000-2001, based upon his action in the De Flores case.
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7 39. Prior to Mitchell's first action to remove Fine as a class counsel,
8 Lewin had denied Fine attorney's fees after Fine had prevailed in the case of
9 Amjadi and LACAOEHS v. LA County Board of Supervisors. In this case, Fine
10 stopped the County from taking approximately \$45 million per year of
11 environmental fees and putting such in the general fund. Fine won an injunction
12 to establish a "special fund" and place the money in it. \$11 million was
13 immediately taken from the general fund and placed in the "special fund." All
14 new environmental fees were frozen until the \$11 million was expended. The
15 environmental fees in the "special fund" could only be used for special purposes.
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17 As of the present time, the special fund has probably collected \$500 million.
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21 40. Judge Lewin concealed the fact that he was receiving payments from
22 LA County. LA County Counsel also concealed that fact. Lewin denied Fine
23 attorney's fees. Fine challenged Lewin as biased for his anti-union position and
24 appealed. Fine later found out about the concealed LA County payments and
25 filed the Lewin federal case.
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1 41. During this same time, Fine was fighting the lawsuit of Silva v.
2 Garcetti to obtain \$14 million of child support monies for women and children
3 that the LA County District Attorney had illegally held for over six months. The
4 LA County District Attorney admitted to the violation. At the end of the trial,
5 Judge Chalfant dismissed the case. Chalfant concealed the fact that he was
6 receiving payments from LA County. The LA County Counsel concealed the
7 fact that LA County was making the payments. When Fine found out, he raised
8 the issue in the appeal.
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12 42. During the same time, Mitchell, who was also receiving payments
13 from LA County and concealing such, began acting against Fine as set forth
14 above.
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17 **G. The LA Superior Court and the State Bar join forces against**
18 **Fine.**

19 43. After the LA County payments became an issue raised by Fine,
20 James A. Basque, the then- or former presiding judge of the LA Superior Court,
21 filed a complaint against Fine with the State Bar. Basque had fought to stop the
22 legislature from removing the law allowing local courts to pass rules to accept
23 County payments, even though the 1997 Lockyer – Isenberg Trial Court Funding
24 Act required the state to pay all trial court costs. Fine did not know Basque and
25 had never appeared before him. A sham NDC was filed in April 2003 by the
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1 State Bar. It was dismissed by the State Bar on February 2, 2004 “in the
2 furtherance of justice” after Fine had filed a motion to dismiss.
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4 44. By 2003, Fine had filed:

5 A. LACAOEHS v. County of Los Angeles and Lewin and Silva v.
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7 Chalfant, et al – both federal civil rights cases alleging that the LA
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9 County payments to the LA Superior Court judges violated Article
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11 VI, Section 19, of the California Constitution:
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13 B. Arguments in appellate briefs against Judge Chalfant and Justice
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15 Doi Todd for having taken LA County payments, concealed such
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17 and judged LA County cases, and against Justices Boren and Nott
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19 for having concealed Judge Doi Todd’s actions; and
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21 C. CCP § 170.3 objections and motions to recuse LA Superior Court
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23 judges based upon the LA County payments issue.
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25 45. In May of 2004, Fine commenced filing a series of four cases
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27 challenging the leases of LA County land in Marina del Rey, California, to
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developers to develop private apartment complexes, boat slips and businesses as

an unconstitutional gift of public property to private individuals. The cases were

consolidated under Coalition to Save the Marina and Marina Tenants

Association, et al, v. County of Los Angeles, et al, LASC case no. BS089838.

Fine filed a CCP § 170.3 objection against Judge Bruguera, based upon her

1 taking payments from LA County, and moved to have the cases transferred out of
2 LA County. Judge Bruguera “struck” the objection and denied the motion. Fine
3 took writs to the Court of Appeal and the California Supreme Court. These were
4 summarily denied.
5

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7 46. In September 2006, Fine was informed in a letter from Itzel Berrio,
8 Asst. General Counsel of the California State Bar, that a complaint had been filed
9 against him in September 2004 and that such complaint was the basis of the NDC
10 filed February 2, 2006. As stated above, Mitchell identified himself as the
11 “complaining party”. At all times, the State Bar concealed Mitchell’s identity.
12
13 The Berrio letter further stated that the State Bar researched 30 cases in which
14 Fine had participated in order to bring its charges, from which it selected five
15 main cases. Four involved Mitchell. Four involved LA County payments in
16 some form. Two counts of the NDC challenged the filing of the Lewin and Silva
17 cases as “moral turpitude.” The NDC also alleged that the filing of the federal
18 civil rights lawsuit of Fine v. Mitchell in 2003 constituted “moral turpitude” as it
19 pursued the same claim for relief as in Lewin and Silva. As shown above,
20
21 Sturgeon, supra, and the retroactive immunity provided by Senate Bill SBX2-11
22 dispels any question of Fine’s conduct, much less “moral turpitude” for CCP §
23 170.3 objections against Mitchell in the Debbs, Churchfield, McCormick and
24 PSO cases. Mitchell never answered or struck the objections; he responded
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1 instead with an illegal “striking or in the alternative answer.” (See Lewis v.
 2 Superior Court of LA County, 198 Cal.App.3d 1101 (1988); PBA, LLC v. KPOD,
 3 Ltd., 112 Cal.App.4th 965 (2003).) Mitchell was disqualified under CCP §
 4 170.3(c)(4). Mitchell’s responses were legally void.
 5
 6

7 **H. Two successive State Bar presidents and a “public member” of**
 8 **the Board are on adverse sides to Fine in cases.**

9 47. In 2004, Fine filed the case of Coalition to Save the Marina, et al, v.
 10 County of Los Angeles challenging LA County’s “seaworthy ordinance.” In May
 11 2005, the case was answered to include Marina Pacific Association (MPA), a
 12 lessee in Marina del Rey who was evicting boaters. The local general partner for
 13 MPA was the Epstein Family Trust. The trustees were Jerry B. Epstein and Pat
 14 Epstein. One of their attorneys was Sheldon H. Sloan, a member of the Board,
 15 and President of the State Bar in 2006-2007. On July 7, 2005, MPA filed a
 16 counterclaim for breach of the boat slip lease which the California Court of
 17 Appeal later commented could not succeed as it did not allege failure to pay rent,
 18 did not show damages and showed that the boat slip lease was replaced with a
 19 temporary moorage contract. Sheldon H. Sloan and his client, Epstein, had an
 20 interest in removing Fine from practice.
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26 48. In January 2006, Fine was retained by the Marina Strand Colony II
 27 Homeowners Association to oppose an Environmental Impact Report (EIR) for
 28 the redevelopment of the Del Rey Shores apartment complex in Marina del Rey,

1 California. The co-applicants were the County of Los Angeles and Del Rey
2 Shores Joint Venture and Del Rey Shores Joint Venture North (Del Rey Shores).
3
4 The local general partner of Del Rey Shores was the Epstein Family Trust. The
5 trustees were Jerry B. Epstein and Pat Epstein.
6

7 49. As part of the Del Rey Shores development, the Epsteins negotiated
8 an option for a lease extension with LA County. This was a requirement in the
9 EIR to show financial benefit to LA County. The documents showed that LA
10 County was represented by Munger, Tolles and Olson. Jeffrey Bleich was a
11 partner with Munger, Tulles and Olson. He was also a member of the Board and
12 succeeded Sheldon H. Sloan as the President of the State Bar for 2007-2008. He,
13
14 his firm and their client had an interest in removing Fine from practice.
15

16 50. During the year 2006, Jerry B. Epstein, Pat Epstein and David B.
17 Levine (of the office of Jerry B. Epstein) contributed \$4,600 to LA Supervisors
18 Antonovich, Burke and Knabe. In April 2007, contributions in excess of \$4,700
19 were given to LA Supervisors Antonovich and Knabe by the Epstein interests.
20
21 On May 15, 2007, four LA Supervisors, including Antonovich and Knabe, voted
22 to certify the EIR for the Del Rey Shores redevelopment. The votes of
23 Supervisors Antonovich and Knabe were illegal as they had received
24 contributions from an interested party (the Epsteins) of greater than \$500 within
25 twelve months of the vote. (See BreakZone Billiards v. City of Torrance, 81
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1 Cal.App.4th 1205 (2000).) The EIR was not lawfully passed as it only received
2 two qualified votes; three were needed for lawful passage.
3

4 51. In June 2007, Fine filed suit against LA County to void the EIR in
5 Marina Strand Colony II Homeowners Association v. County of Los Angeles,
6 LASC case no. BS 190420. The case was before LA Superior Court Judge David
7 P. Yaffe. Judge Yaffe received illegal payments from LA County but did not
8 disclose such in violation of California Code of Judicial Ethics Canons 2A and B,
9 3B(5), (7) and (8), 4A(1) and (3), and 4D(1)(a) and (b). Additionally, since the
10 payments were criminal under Senate Bill SBX2-11's retroactive immunity, he
11 should have recused himself. (See Offutt v. United States, 348 U.S. 11, 14 (1954)
12 – “ a judge receiving a bribe from an interested party over which he is presiding
13 does not give the appearance of justice.” Levine v. United States, 362 U.S. 610
14 (1960) – “justice must have the appearance of justice.”
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19 52. In 2006, Fine was retained by the Grassroots Coalition to enforce a
20 writ of mandate against the City of Los Angeles in the case of Aetna v. City of
21 Los Angeles and Playa Vista Capital Corp., LASC case no. BS073182. Laura
22 Chick was the City Controller for the City of Los Angeles. During 2006-2007,
23 she was appointed to the State Bar Board of Governors as a public member.
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27 53. On or about June 5, 2007, Laura Chick, through her office, made a
28 favorable report regarding the Building Department inspections at the Playa Vista

1 development. The next day, a \$5,000 "behest" was given in her name to a charity
2 by Latham & Watkins, the attorneys and lobbyists for Playa Vista Capital Corp.,
3 the developers for Playa Vista. A "behest" cannot be given without the prior
4 approval of the office holder. The comment period for the report was still open
5 when the "behest" was given. Fine raised the issue in the Playa Vista lawsuit that
6 the "behest" was illegal. Laura Chick had an interest in removing Fine from
7 practice.
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11 54. Laura Chick had been a LA City Councilperson during the time of
12 the Shinkle case. The Shinkle case was one of the cases in the NDC. Fine
13 brought the case against the City of Los Angeles to reduce the sewer service
14 charges and to obtain damages for the residents who had been overcharged by the
15 City of Los Angeles. After the suit was brought, the LA City Council voted to
16 reduce the sewer service charges as set forth in the suit. However, due to the
17 unlawful action of Mitchell in denying class certification, and a later granting of
18 summary judgment in the individual case, only the injunctive relief was obtained
19 by the City Council vote. Laura Chick had an interest in the counts in the NDC
20 relating to the Shinkle case as such reflected on the conduct of the City of Los
21 Angeles while she was a councilperson.
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27 55. The State Bar Act makes it a misdemeanor for a Board member to
28 not disclose a conflict. Since neither Sloan, Bleich, nor Chick have been charged

1 or convicted of a misdemeanor, it can only be assumed that the State Bar, the
2 OCTC and the State Bar Court knew of their conflict. None of these entities
3 disclosed such conflict to the California Supreme Court in any document filed
4 with the Court.
5

6
7 **I. Continued retaliation against Fine by LA Superior Court judges.**

8
9 56. In 2007, the LA Superior Court judges further retaliated against Fine
10 through the actions of Judge John P. Shook. In the case Winston Financial
11 Services Inc. v. Fine, et al, a judicial foreclosure case, Winston and his attorney
12 Goe and Forsythe (Robert P. Goe and Marc C. Forsythe) admitted in court papers
13 in 2007 that they had committed a false foreclosure on Fine's residence. They
14 admitted that Winston, who purported to be the beneficiary of a trust deed on
15 Fine's residence, was not the real beneficiary and had committed the false
16 foreclosure. When Fine brought a motion to overturn the lawsuit based upon
17 Winston's fraud upon the Court, Judge Shook denied the motion.
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21 J. State Bar Court Hearing Department Judge Richard A. Honn did not
22 disclose that he was on the Board of Governors of a charity (the Southern
23 California Special Olympics) that received \$30,000.00 from LA County while he
24 decided Fine's case. 57. State Bar Court Hearing Department Judge Richard A.
25 Honn sat on the Board of Governors of the Special Olympics – Southern
26 California during the time he presided over Fine's case.
27
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1 58. During the same time period, LA County documents show that LA
2 County contributed \$30,000 to the charity. Honn did not disclose the
3 contributions nor his membership. The NDC included numerous counts charging
4 Fine with "moral turpitude" for filing lawsuits alleging that the LA County
5 payments to the LA Superior Court judges violated the U.S. and California
6 Constitutions, and for filing CCP § 170.3 objections to judges regarding such
7 payments. Honn held Fine guilty on all seven counts.
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11 59. Honn was under a duty to recuse himself under Code of Judicial
12 Ethics Canons 2A and 2B, and 4A(1) and (3). He has also destroyed the
13 "appearance of justice" and denied due process like the mayor in Monroeville,
14 supra, who was not paid to be a judge, but the fines he assessed went into the
15 town "fisc.", which, as mayor, he managed. Although Honn did not get money
16 personally from LA County, as a member of the Board of Governors, he
17 managed the money that was given to his organization. He was still benefitting.
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21 K. Judge Honn and Review Department Judges Remke, Epstein and
22 Stuvitz had pre-decided that Fine's court filings were not protected by the First
23 Amendment and that the moral turpitude statute did not violate the First
24 Amendment, even though Article 3.5 of the California Constitution precluded
25 them from doing such.
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1 60. The California Constitution precludes the State Bar Court from
2 considering federal constitutional claims. (See Calif. Const., Art. III, Section
3 3.5.) Fine had moved to dismiss the NDC in the Hearing Department. Honn
4 denied the motion.
5

6
7 61. Fine again moved to dismiss on First Amendment grounds in the
8 Review Department. The OCTC responded that it was not challenging the
9 statements in Fine's papers, Fine's rhetoric or Fine's speech. There was nothing
10 left in the case, as each count in the NDC referred to a document filed in court.
11 Judges Remke, Epstein and Stovitz refused to consider any constitutional claim
12 by falsely claiming that it had not been raised in the trial court. Such action
13 violated Article III, Section 3.5, which prohibits them from even deciding a
14 constitutional issue. They were bound to refrain from "deciding" the First
15 Amendment issues.
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19 62. They had previously opposed the argument that the "moral turpitude"
20 law was unconstitutional in the cases of Canatella v. State Bar of California, et
21 al, 304 F.3d 843 (Ninth Cir. 2006) and Canatella v. Stovitz, et al, case no. 05-
22 15447; 213 Fed. Appx 515 (2006) (appellate opinion, not for publication).
23
24

25 63. In both cases, the Chief Trial Counsel was also a defendant, as was
26 the President of the State Bar. This shows a unity of interest on these issues and
27 pre-decision in Fine's case.
28

1 64. In a situation where he had spoken on a subject which later appeared
2 before the Court, i.e. the Pledge of Allegiance to the flag, Justice Scalia recused
3 himself. (See Elk Grove Unified School Dist. v. Newdow, 124 S.Ct. 2301
4 (2004).) Judges Honn, Remke, Epstein and Stovitz violated Code of Judicial
5 Ethics Canons 2A and B.
6
7

8 **L. The Money Trail – The connections between the criminal**
9 **payments to the judges, the contributions to the Supervisors, the**
10 **\$30,000 contribution to Honn's charity and the State Bar's action**
11 **for Fine's "involuntary enrollment" and disbarment.**

12 65. Since the late 1980s, LA County has been making criminal payments
13 to LA Superior Court judges. In 2007, as shown in the Sturgeon case, these
14 payments were approximately \$46,436 per year in addition to the judge's state
15 compensation. Their state salary, excluding benefits, was approximately
16 \$178,800 per year. The LA County payments were approximately 27% of their
17 state salary. Their total compensation, including state benefits, was
18 approximately \$249,000 per year. LA County was paying \$21 million per year to
19 the judges.
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23 66. LA County Counsel Annual Litigation Reports for FY 2005-2006
24 and 2006-2007 showed that no person won a case against LA County when a
25 Superior Court judge made the decision. This was in contrast to the opponents
26 winning before a jury. For FY 2007-2008, it could not be determined if two
27 winning cases were jury verdicts or judicial decisions as the reports did not
28

1 distinguish between judge and jury actions. In FY 2008-2009, one case was
2 decided against LA County by a judge.
3

4 67. The LA Superior Court first came to the State Bar through Judge
5 Basque, a then-presiding or recently presiding judge of the LA Superior Court, to
6 file a complaint against Fine. Fine had been challenging the LA County payments
7 to the LA Superior Court judges. A NDC was filed in April 2003 and dismissed
8 by the State Bar "in the furtherance of justice" on February 2, 2004 after Fine had
9 moved to dismiss.
10
11

12 68. In September 2004, the LA Superior Court again complained to the
13 State Bar through Mitchell, who had been a defendant in the *Silva* case. Mitchell
14 had received criminal LA County payments while sitting as a "temporary judge"
15 assigned to the Eminent Domain Department of the LA Superior Court. The
16 State Bar never disclosed Mitchell's identity. Mitchell filed his complaint after
17 Fine had filed a CCP § 170.3 objection to Judge Bruguera in the consolidated
18 cases of *Coalition to Save the Marina and Marina Tenants Association, et al, v.*
19 *County of Los Angeles, et al.* The objection was based upon the LA County
20 payments to Judge Bruguera. Fine had moved to transfer the cases out of Los
21 Angeles. Judge Bruguera "struck" the motion. Fine filed writs. She denied the
22 motion to transfer. Ultimately, she dismissed the cases. The LA County
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1 taxpayers lost approximately \$700 million in rent from developers as a result,
2 which they should have received if the cases had prevailed.
3

4 69. The State Bar investigated thirty cases in which Fine was involved,
5 seeking reasons to bring charges which were different from those dismissed in
6 2004. Those took until February 6, 2006, when the NDC was filed. The State
7 Bar stretched back to 1999 and 2000 for actions relating to Mitchell, which were
8 beyond the five-year statute of limitations, in addition to not being violations.
9
10

11 69. In late 2004, Fine filed the Coalition to Save the Marina v. County of
12 Los Angeles case, testing the constitutionality of the LA County's "seaworthy
13 ordinance." In March 2005, Marina Pacific Associates was added as a defendant.
14 On July 7, 2005, MPA filed a meritless counterclaim based upon a boat slip
15 lease. One of the attorneys for MPA was Sheldon H. Sloan, a member of the
16 Board of Governors and State Bar President in 2006-2007. The local managing
17 Partner of moa was the Epstein family trust whose trustees were Jerry B. Epstein
18 and Pat Epstein.
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22 71. In January 2006, Fine was retained by the Marina Strand Colony II
23 Homeowners Association to oppose the EIR for the redevelopment of Del Rey
24 Shores. The co-applicants were LA County and Del Rey Shores. Del Rey
25 Shores' local managing partner was the Epstein Family Trust, whose trustees
26 were Jerry B. Epstein and Pat Epstein.
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1 72. The law firm representing LA County in negotiating a lease
2 extension with Del Rey Shores as part of the EIR was Munger, Tolles and Olson.
3 One of their partners, Jeffrey Bleich, was a member of the Board of Governors of
4 the State Bar and succeeded Sheldon H. Sloan as President for 2007 - 2008.
5

6
7 73. On May 15, 2007, the LA County Board of Supervisors approved the
8 EIR on an illegal 4-1 vote. Two of the votes, Antonovich's and Knabe's, were
9 illegal because they had received contributions of greater than \$500 from the
10 Epsteins and their employees within 12 months prior to the vote.
11

12 74. In June 2007, Fine filed the case of Marina Strand Colony II
13 Homeowners Association v. County of Los Angeles to void the EIR due to the
14 illegal votes. LA Superior Court Judge David P. Yaffe did not void the EIR.
15

16
17 75. On January 8, 2008, long after Fine left the case, Judge Yaffe,
18 without prior notice to Fine, issued an unlawful order for Fine to pay attorney's
19 fees and costs to LA County and Del Rey Shores, then held Fine in contempt and
20 ordered him jailed under "coercive incarceration" while Fine fought the question:
21 "whether the trial court judge [Judge Yaffe] should have recused himself" by a
22 writ of habeas corpus. Fine has been imprisoned in the LA County Jail since
23 March 4, 2009. Judge Yaffe admitted, on March 20, 2008, to taking LA County
24 payments, was disqualified on April 7, 2008, and refused to leave the case. On
25 December 22, 2008, Yaffe testified at the contempt trial that he received the LA
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1 County payments, that he did not report them on his Form 700 Statement of
2 Economic Interests, that he did not have any employment agreement or
3 arrangement for services with LA County and that he could not remember any
4 case in the last three years that he decided against LA County.
5

6
7 76. In 2006, Fine was retained by the Grassroots Coalition to enforce a
8 Writ of Mandate against the City of Los Angeles in the case of Aetna, et al, v.
9 City of Los Angeles and Playa Vista Capital Corp. LA City Controller Laura
10 Chick had an illegal "behest" given in her name by Latham & Watkins to a
11 charity the day after she issued a report favorable to Playa Vista Capital Corp.
12 Latham & Watkins was the law firm in the litigation and the lobbyist for Playa
13 Vista Capital Corp.
14

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16
17 77. On February 6, 2006, when the NDC was filed, it was assigned to
18 Hearing Department Judge Richard A. Honn. Honn presided over the case until
19 October 31, 2007, when he denied the post-trial motion. During such time, he
20 was a member of the Board of Governors of the Special Olympics -- Southern
21 California. Documents from LA County show that, during such time, LA County
22 contributed \$30,000 to the Special Olympics -- Southern California. Honn found
23 Fine guilty of almost all counts in the NDC. He did not find Fine guilty of
24 making false statements, which were Counts 2, 4 and 17.
25
26
27

28 78. The money trail is as follows:

- a. LA County Supervisors make criminal payments to the LA Superior Court judges and court commissioners sitting as “temporary judges”;
- b. The LA Superior Court judges and “temporary judges” decide cases in favor of LA County;
- c. LA Superior Court judges and “temporary judges” also decide cases against Fine (who had challenged such LA County payments) and his clients;
- d. The LA Superior Court, through its presiding judge or “former presiding judge,” and a commissioner “temporary judge” complain about Fine to the State Bar;
- e. The complaint targets Fine’s challenges to the LA County payments to the judges;
- f. Epstein and his employees make contributions to LA County Supervisors Antonovich and Knabe which result in the unlawful approval of an illegal EIR;
- g. LA County criminal payments are made to Judge Yaffe, who does not void the EIR and incarcerates Fine;
- h. Sloan and Bleich, lawyers for Epstein and LA County, are Board members and successive presidents of the State Bar;

1 i. Chick becomes a "public member" of the Board after the NDC
2 is filed and during the proceedings;

3
4 j. Honn's charity receives \$30,000 from LA County while he
5 presides over Fine's case. Honn decides that Fine's filing cases
6 challenging the LA County payments to LA Superior Court
7 judges is "moral turpitude."
8

9
10 79. In summary: Epstein contributed to the LA County Supervisors, the
11 Supervisors illegally decide for Epstein; LA County makes criminal payments to
12 LA Superior Court judges, the LA Superior Court judges decide for LA County,
13 the LA Superior Court complains about Fine to the State Bar; lawyers for Epstein
14 and LA County are on the Board of Governors and become two presidents of the
15 State Bar; the State Bar files an NDC; Chick becomes a public member of the
16 board; LA County contributes \$30,000 to the charity where the Hearing
17 Department judge who is presiding over the case is a member of the Board of
18 Governors; Fine is convicted of "moral turpitude" and disbarred for challenging
19 the LA County payments to the judges and challenging the judges and judicial
20 officers who took the criminal payments.
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25 80. The money trail reaches the California Supreme Court as the official
26 biographies show that Chief Justice George and Justices Chin, Corrigan, Kennard
27
28

1 and Moreno would have received criminal County payments when they were
2 Superior Court judges.
3

4 **M. First Cause of Action for violation of civil rights based upon**
5 **extrinsic fraud upon the Court.**

6 81. Plaintiff incorporates paragraphs 1 through 80, and each of them, as
7 if set forth in full.
8

9 82. Defendants have violated the First, Fifth and Fourteenth
10 Amendments to the U.S. Constitution by committing extrinsic fraud upon the
11 Court. Such extrinsic fraud consisted of the filing of a NDC on February 6, 2006,
12 knowing that such was false and a sham; not dismissing the NDC and allowing
13 the October 12, 2007 Hearing Department Order of Involuntary Inactive
14 Enrollment and Recommendation of Disbarment to proceed while knowing such
15 was a sham and unconstitutional, and not dismissing the NDC and allowing the
16 September 28, 2008 Review Department Recommendation of Disbarment to
17 proceed to the California Supreme Court while knowing that the remaining
18 counts in the NDC were false, a sham and unconstitutional.
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23 83. At all times the State Bar defendants knew that Fine had not made
24 any false statements in any pleadings set forth in the NDC. This was particularly
25 true for Counts 2, 4 and 17, which alleged false statements and were dismissed
26 for such having not been proved by the Hearing Department Judge. The State
27 Bar did not appeal such dismissal. The State Bar defendants committed fraud
28

1 upon the Supreme Court by allowing the Review Department's illegal
2 Recommendation overturning the dismissal of Counts 4 and 17 in violation of
3 State Bar Rule of Procedure Rule 305 and without notice of hearing in violation
4 of due process as set forth in Ruffalo, supra, and knowing that such counts were
5 false and a sham. The Supreme Court was deceived.
6
7

8 84. Count 4 of the NDC alleged that Fine made a false statement when
9 he charged in an appeal that Mitchell "misappropriated" monies from the De
10 Flores settlement fund. The truth is that the State Bar defendants knew from the
11 De Flores accounting documents and the 2005 petitions for attorney's fees that
12 Mitchell had misappropriated monies from the De Flores settlement fund in
13 violation of Section 5, paragraphs 5.2(a) and (b) to pay the attorneys to defend
14 him in the 2000 appeal. The State Bar defendants did not disclose such to the
15 California Supreme Court. The State Bar defendants, as officers of the Court,
16 deceived the Supreme Court. The Supreme Court was deceived.
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21 85. Count 17 charged Fine with making a false statement because he
22 paraphrased Judge Lewin's statement that it was "bad for County unions to sue
23 the County" as the reason for Judge Lewin not awarding attorney's fees, instead
24 of reciting Judge Lewin's other reasons. The statement was made in the Lewin
25 complaint charging Lewin with violating Article VI, Section 19, of the California
26
27
28

1 Constitution, the First and Fourteenth Amendments, and the Code of Judicial
2 Ethics for taking payments from LA County.
3

4 86. The truth is that the State Bar defendants knew that Count 17 was
5 false because they knew that the reasons that Lewin had given, other than the fact
6 that LACAOEHS was an employee union, were false and that Lewin was being
7 paid money from LA County during the case and not dismissing it. They
8 particularly knew from the Amjadi case and Fine's victory that Lewin was
9 making false statements when he stated that the suit had not conferred a benefit
10 when it created a \$45 million fund and froze environmental fees, that the union
11 did not show a necessity for the suit when the suit stopped LA County from
12 stealing \$45 million a year from environmental purposes and unnecessarily
13 raising fees, and that the suit was brought as part of a labor dispute and giving
14 fees would encourage this type of conduct, for which there was no proof. The
15 State Bar defendants concealed this information, as it did with Count 4.
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21 87. The State Bar defendants knew that, as to all other counts in the
22 NDC, disciplinary rules can not punish activity protected by the First
23 Amendment. (See Matter of Dixon, Review Dept. (1999) 4 Cal. State Bar Ct.
24 Rptr. 23, 30 (1999).) They knew that the First Amendment encompassed the
25 right to petition the government to redress a grievance, the freedom of speech,
26
27
28

1 and "the right of a citizen to severely criticize the performance of the government
2 and the courts is beyond cavil." (*Garrison v. Louisiana*, 379 U.S. 64 (1964).)

3
4 88. Removing Counts 4 and 17 from the NDC, all other counts were
5 founded in statements made in pleadings filed in courts. All were truthful. The
6 State Bar defendants knew that disciplinary charges could not be brought against
7 any such statement and that all such statements were protected by the First
8 Amendment. They also knew that Fine was correct in the underlying law.
9

10
11 89. In response to Fine's First Amendment argument, the OCTC stated in
12 its Respondent's Brief in the Review Department that it was not prosecuting Fine
13 for the content of his statements, his rhetoric or his speech. By allowing the
14 Review Department decision to go to the Supreme Court, the State Bar
15 defendants, as officers of the court, deceived the Court. The Supreme Court was
16 deceived.
17

18
19 90. After the decision of the Review Department, only Counts 1, 5, 6, 8-9
20 (treated as one), 14, 16, 18 and 20-22 (treated as one), remained.
21

22 91. All of those counts involve Mitchell, the "complaining party" whom
23 the State Bar defendants never disclosed. The State Bar defendants colluded
24 with Mitchell to hide the fact that he was not a "temporary judge" for post-
25 judgment proceedings in the *De Flores* case, that he unlawfully approved the
26 taking of approximately \$2,550,600 from the *De Flores* settlement fund, of which
27
28

1 approximately \$1,980,000 benefitted the "LA Superior Court, Bruce E. Mitchell
2 and other judicial officers" by purchasing all claims Fine had against them and
3 defending the purchase, and that he had received criminal judicial payments from
4 LA County while acting as a "temporary judge" in the Eminent Domain Dept. of
5 the LA Superior Court.
6
7

8 92. The State Bar defendants were colluding with Mitchell against Fine,
9 who had reported his conduct to the Commission on Judicial Performance. (See
10 State Bar trial joint exhibit 180), to intimidate Fine by bringing the NDC.
11

12 93. This action was done by the State Bar defendants as officers of the
13 Court to deceive the Supreme Court. It deceived the Supreme Court. The
14 Supreme Court was deceived.
15
16

17 94. The State Bar defendants knew at all times that the "complaining party"
18 was Mitchell and that the Gerald E. Magnason Declaration was false. By
19 concealing such information from the Supreme Court, they deceived the Supreme
20 Court. The Supreme Court was deceived.
21

22 95. The State Bar defendants were colluding with and aiding and abetting
23 the LA Superior Court, who had received criminal payments, to file and
24 prosecute a false and sham NDC against Fine, who was challenging the criminal
25 LA County payments to LA Superior Court judges.
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1 96. This action was done by the State Bar defendants to deceive the
2 Supreme Court. It did deceive the Supreme Court.
3

4 97. The State Bar defendants acted against Fine for their personal
5 financial gain and the financial gain of their clients by filing and prosecuting a
6 false and sham NDC. In doing so, they acted as officers of the Court to deceive
7 the Supreme Court. They did deceive the Supreme Court.
8

9 98. The State Bar defendants knew that Count 1 was false and a sham.
10 Count 1 charged Fine with "moral turpitude" for filing "frivolous" CCP § 170.3
11 objections against Mitchell in the De Flores case after the final judgment was
12 entered. The State Bar defendants knew that Mitchell was not a judicial officer
13 in the De Flores case after the final judgment was entered, therefore the basis of
14 the Count (that he was a judicial officer) was false. The State Bar defendants
15 knew that the California appellate case of Fine v. Superior Court, which had
16 referred to nine challenges as frivolous, was voided and annulled when Mitchell,
17 acting as the LA Superior Court, voided and annulled the underlying contempt
18 proceedings on August 21, 2002, along with the claim that he was a "temporary
19 judge" in the De Flores case. They knew the Mitchell had defrauded the Court
20 by claiming to be a "temporary judge" in the De Flores case in 2003, but such
21 effort failed when Judge Czulager did not respond to a CCP § 170.3 objection.
22 (See State Bar joint trial exhibit 180). They knew that Mitchell's responses to the
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1 CCP § 170.3 objections were unlawful as they were a “striking or in the
2 alternative answer”, which is neither a striking nor an answer. They knew such
3 was void under law.
4

5 99. The State Bar defendants, as officers of the Court, deceived the
6 Supreme Court. The Supreme Court was deceived.
7

8 100. The State Bar defendants knew that Count 5 was false and a sham.
9 Count 5 charged Fine with “moral turpitude” for filing an appeal after a status
10 conference in the De Flores case before Mitchell. Here, again, the State Bar
11 defendants knew that Mitchell was not the “temporary judge” in the De Flores
12 case. They also knew from reading the documents in the appeal that the status
13 conference order which was being appealed did not “re-litigate” an earlier
14 removal of Fine as “class counsel” for the settlement class. They knew from the
15 stipulation of settlement and final judgment that there was not any “class
16 counsel”, thus none could be removed. They knew that Mitchell later stated that
17 any lawyer that represented an individual class member was a “class counsel”.
18 They knew that this is a different definition from “class counsel” for a certified
19 class and different from trying to remove Fine from representing a certified class.
20 They knew that Mitchell was trying to change the substance of a final judgment.
21 This is unlawful and prohibited by CCP § 473d.
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1 101. The State Bar defendants, as officers of the Court, deceived the
2 Supreme Court. The Supreme Court was deceived.

3
4 102. Count 6 was false and a sham. Count 6 charged Fine with "moral
5 turpitude" for filing a second CCP § 170.3 objection against Mitchell in 2000 in
6 the Shinkle case. The State Bar defendants argued that the case had been
7 transferred to Judge Horowitz after Mitchell had denied class certification. They
8 ignored the fact that Mitchell did not deny that he still was a "temporary judge"
9 for class purposes. Additionally, Mitchell's denial of class certification on
10 substantive grounds was subject to the California Supreme Court case of Linder
11 v. Thrifty Oil, 23 Cal.4th 429 (2000), which was decided while the Shinkle case
12 was still in the trial court. This was *stare decisis* on the Shinkle case and
13 emasculated Mitchell's order, sending the case back to him for the class
14 certification issue. He was thus temporary judge as he acknowledged, and
15 subject to the CCP § 170.3 objection.
16
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21 103. The State Bar defendants, as officers of the Court, deceived the
22 Supreme Court. The Supreme Court was deceived. The State Bar defendants
23 knew that Counts 8-9 (as one count) were false and a sham. Counts 8-9 charged
24 Fine with "moral turpitude" for failing to inform the Court of Appeal that the trial
25 judge had illegally changed a judgment after a writ had been filed by Fine,
26 changing the substantive language of the judgment. The State Bar defendants
27
28

1 knew that a judge is prohibited from changing the substance of a final judgment
2 under CCP § 473d. They also knew that, under CCP § 916, after an appeal is
3 filed or writ is filed in a case, appealing CCP § 170.3 determinations, the trial
4 court loses jurisdiction to make changes. Here, the change was made after the
5 petition for writ of mandate was filed.
6
7

8 104. The State Bar defendants, as officers of the Court, deceived the
9 Supreme Court. The Supreme Court was deceived.
10

11 105. The State Bar defendants knew that Count 14 was false and a sham.
12 Count 14 charges Fine with “moral turpitude” for filing “frivolous” CCP § 170.3
13 objections against Mitchell in the *Debbs*, *Crutchfield*, *McCormick* and *PSO* cases
14 from December 1999 to May 2001. No Court of record held any of the CCP §
15 170.3 objections to be “frivolous.” Once again, Mitchell filed an unlawful
16 response of “striking or in the alternate answer” which was legally void. Mitchell
17 was therefore disqualified under CCP § 170.3(c)(4). State Bar defendants knew
18 this, and knew that they had a false and sham count.
19
20
21

22 106. The State Bar defendants, as officers of the Court, deceived the
23 Supreme Court. The Supreme Court was deceived.
24

25 107. The State Bar defendants knew that every act committed before
26 February 6, 2001 was beyond the five-year statute of limitations. The NDC was
27 filed on February 6, 2006. The statute of limitations is five years. The State Bar
28

1 does not fall into the exemption of the NDC having been a State Bar
2 investigation, as it is now known that Mitchell was the “complaining party.” No
3 count in the NDC alleged a “continuing concert of action.” The statute of
4 limitations, irrespective of the falsity of the counts, eliminates all CCP § 170.3
5 objections in Counts 1 and 14 (which may leave one or two in each count), all of
6 Count 5, all of Count 6, all of Count 8-9 and all of reinstated Count 4.
7
8

9 108. The State Bar defendants, acting as officers of the Court, deceived
10 the Supreme Court. The Supreme Court was deceived.
11

12 109. Count 16 was false and a sham. Count 16 charged Fine with “moral
13 turpitude” for filing a motion for leave to file a first amended complaint in the
14 Lewin case and substitute the proposed complaint in the Silva case. The State
15 Bar defendants knew that the case of Chang v. Chen, 80 F.3d 1293 (9th Cir. 1996)
16 sets forth the U.S. Supreme Court and Ninth Circuit policies to allow an
17 amendment to a complaint. Further, the amended complaint cured the problem
18 perceived in the Lewin case as it followed the directions of the Court.
19
20
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22 110. The State Bar defendants, as officers of the Court, deceived the
23 Supreme Court. The Supreme Court was deceived.
24

25 111. Count 18 was false and a sham. Count 18 charged Fine with “moral
26 turpitude” for filing a “frivolous” federal complaint; i.e., the Silva case. The
27 Silva case alleged that the LA County payments to the LA Superior Court judges
28

1 violated Article VI, Section 19, of the California Constitution and the First and
2 Fourteenth Amendments of the U.S. Constitution. The State Bar defendants
3 knew that Sturgeon, supra, held that the LA County payments to the LA Superior
4 Court judges violated Article VI, Section 19, of the California Constitution
5 before the Review Department decision became final. They also knew that
6 Senate Bill SBX2-11 giving retroactive immunity to the judges was enacted
7 before the Supreme Court decision became final. At all times they knew that no
8 law passed by the legislature "prescribed" the payments.
9

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12 112. The State Bar defendants, as officers of the Court, deceived the
13 Supreme Court. The Supreme Court was deceived.
14

15 113. Counts 20-22 (as one count) was false and a sham. Counts 20-22
16 charged Fine with "moral turpitude" for filing a "frivolous" action, the Mitchell
17 case. The Review Department characterized the Mitchell case as pursuing the
18 "same claims as in the Lewin and Silva matters." In the Mitchell case, Fine
19 sought various orders based upon Mitchell having committed a fraud upon the
20 Court by claiming to be temporary judge n the De Flores case when he was not.
21 The State Bar defendants knew of the fraud upon the Court by Mitchell, they
22 knew that fraud upon the Court is an exception to the *Rooker-Feldman Doctrine*,
23 they knew that the Mitchell case was dealing with no administrative actions as
24 distinguished from judicial decisions in some parts, they knew that the Mitchell
25
26
27
28

1 case was dealing with current acts which were outside of *Rooker-Feldman* (see
2 *Exxon Mobile Corp. v. Saudi Basic Ind. Corp.*, 544 U.S. 280 (2005), seeking to
3 enjoin unlawful proceedings relating to contempt proceedings against Fine). In
4 *Fine v. Czuleger, et al*, USDC case no. CV-04-0078, the Court held that the
5 claims were identical to those in the *Mitchell* case and stated that the *Mitchell*
6 case should be amended. *Fine v. Czuleger* was a civil rights “habeas corpus”
7 proceeding, brought after incarceration. In the *Mitchell* case, the Court held that
8 it had jurisdiction over habeas proceedings. The State Bar defendants knew all of
9 these facts.
10
11
12

13
14 114. The State Bar defendants, as officers of the Court, deceived the
15 Court. The Court was deceived.
16

17 115. The State Bar defendants knew that no act allowed in Counts 1, 5, 6,
18 8-9 and 20-22 was “moral turpitude.” The State Bar defendants knew that the
19 standard for moral turpitude was an act “contrary to honesty and morals.” (See
20 *Kitsis v. State Bar*, 23 Cal.3d 857, 865 (1979).) The State Bar defendants knew
21 that no act in any of the aforementioned counts violated “honesty and good
22 morals.” The State Bar defendants knew that no court of record had sanctioned
23 Fine for any act alleged in the aforementioned counts, with such action not being
24 voided. The State Bar defendants knew that none of the acts in the
25 aforementioned counts were held to be “frivolous” by any court of record. In
26
27
28

1 this regard, the State Bar defendants knew that the State appellate case of Fine v.
2 Superior Court was void under U.S. Supreme Court precedent, which California
3 judges are bound to follow. (See Article 6, Cl. 2 of the U.S. Constitution and the
4 oath of office.) The State Bar defendants knew that Judge Czuleger's 2003
5 judgment of contempt was void due to Mitchell's fraud on the court and
6 Czuleger's disqualification under CCP § 170.3(c)(4). The State Bar defendants
7 knew that the State Bar Court is not a court of record in the California
8 Constitution, and any published opinion rendered by such a court is not law.
9
10
11

12 116. The State Bar defendants, as officers of the Court, deceived the
13 Supreme Court. The Supreme Court was deceived.
14

15 117. The effect of the deception upon the Supreme Court was that the
16 Supreme Court denied Fine's Petition for Review on the Hearing Department's
17 Order of Involuntary Inactive Enrollment, nor does such occur under law when a
18 petition for review is denied, and the Supreme Court denied Fine's Petition for
19 Review of the Review Department's Recommendation of Disbarment. This
20 Recommendation of Disbarment became the order of the Supreme Court under
21 B&P code § 6084 when the denial of review became effective on March 25,
22 2009.
23
24
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1 118. The State Bar defendants publicized the Hearing Department's Order
2 of Involuntary Inactive Enrollment without showing that it was not affirmed by
3 the Supreme Court.
4

5 119. The State Bar defendants published the Review Department Opinion
6 and Recommendation, and list Fine as "disbarred" on the State Bar website.
7
8

9
10 **Prayer**

11 Wherefore plaintiff prays:

12 1. The Court issue an order voiding and annulling the October 12, 2007
13 decision of the State Bar Court Hearing Department and Order of Involuntary
14 Inactive Enrollment;
15

16 2. The Court order the State Bar to remove the October 12, 2007
17 Decision and Order of Involuntary Inactive Enrollment from its website and
18 records, and inform all persons and entities whom they had informed of such
19 decision, and order that such decision and order has been ordered to be voided
20 and annulled by the Court;
21
22

23 3. The Court order the California Supreme Court to void and annul the
24 disbarment of Richard Isaac Fine and to restore his name as an active member of
25 the Bar as if no disbarment had occurred, without the payment of any back dues,
26
27
28

1 assessments or penalties, and to remove any costs, penalties or other charges
2 levied against him by the Supreme Court or the State Bar;
3

4 4. The Court order the State Bar to remove the Review Department
5 Opinion from its website, restore Richard Isaac Fine to the active list of State Bar
6 members as of October 12, 2007, pay all costs of the State Bar proceeding
7 including transcript costs, copying costs and Supreme Court filing fees to Fine,
8 and to contact all persons and entities whom they informed of the disbarment and
9 inform them that the disbarment has been voided and annulled by this Court;
10
11

12 5. For costs of suit herein;
13

14 6. For reasonable attorney's fees; and
15

16 7. For such further relief as the Court deems fit.
17

18 Dated: January 5, 2010
19

Respectfully submitted,
20

21 BY: 
22 RICHARD I. FINE,
23 In Pro Per
24
25
26
27
28

Verification

I, Richard I. Fine, declare:

I am the plaintiff herein. I have read the above complaint and know the facts alleged therein to be true to my personal knowledge.

I declare under penalty of perjury under the laws of the United States of America.

Executed this 5th day of January, 2010, at Los Angeles, California.

BY: 

RICHARD I. FINE,
In Pro Per

Demand For Jury Trial

Plaintiff hereby demands a trial by jury.

Dated: January 5, 2010

Respectfully submitted,

BY: 

RICHARD I. FINE,
In Pro Per



TERRY NAFISI

District Court Executive
and Clerk of Court

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

WESTERN DIVISION

312 North Spring Street, Room G-8 Los
Angeles, CA 90012
Tel: (213) 894-7984

SOUTHERN DIVISION

411 West Fourth Street, Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4570

EASTERN DIVISION

3470 Twelfth Street, Room 134
Riverside, CA 92501
(951) 328-4450

Tuesday, January 05, 2010

RICHARD I. FINE
1824367
441 BAUCHET STREET
LOS ANGELES, CA 90012

Dear Sir/Madam:

A Complaint for Civil Rights was filed today on your behalf and assigned civil case number
CV10- 48 JFW (CW)

A Motion for Extension of Time to File Habeas Corpus Petition was filed today on your behalf and
assigned civil case number _____

Please refer to this case number in all future communications.

Please Address all correspondence to the attention of the Courtroom Deputy for:

☐ District Court Judge _____
☒ Magistrate Judge Carla Woehrle

at the following address:

<input checked="" type="checkbox"/> U.S. District Court 312 N. Spring Street Civil Section, Room G-8 Los Angeles, CA 90012	Ronald Reagan Federal Building and U.S. Courthouse 411 West Fourth St., Suite 1053 Santa Ana, CA 92701-4516	U.S. District Court 3470 Twelfth Street Room 134 Riverside, CA 92501
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The Court must be notified within fifteen (15) days of any address change. If mail directed to your address of record is returned undelivered by the Post Office, and if the Court and opposing counsel are not notified in writing within fifteen (15) days thereafter of your current address, the Court may dismiss the case with or without prejudice for want of prosecution.

Sincerely,

Clerk, U.S. District Court

By: AGRAGERA
Deputy Clerk

Name & Address:

RICHARD I. FINE
PRISONER ID# 1824367
C/O MEN'S CENTRAL JAIL
441 BAUCHAT STREET
LOS ANGELES, CA 90012

FOR OFFICE USE ONLY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RICHARD I. FINE

PLAINTIFF(S)

CASE NUMBER

CV10-00048 JFW/cw

SUMMONS

STATE BAR OF CALIFORNIA; BOARD OF GOVERNORS OF
THE STATE BAR OF CALIFORNIA; SCOTT DREXEL,
CHIEF TRIAL COUNSEL OF THE STATE BAR OF
CALIFORNIA; AND THE SUPREME COURT OF CALIFORNIA
ONLY AS A NECESSARY PARTY):

DEFENDANT(S)

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, RICHARD I. FINE 1824367, whose address is 441 BAUCHAT STREET C/O MEN'S CENTRAL JAIL. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JAN 5, 2010

By:

JOY CRAGERA
Deputy Clerk

FOR OFFICE USE ONLY

(Seal of the Court)

SEAL

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].